

**REMARKS**

Claims 1-8, 10-16, 24-27, and 30-43 are pending in the application.

Claims 1-8, 10-16, 24-27, and 30-38 stand rejected.

Claims 1, 4, 6-8, 10, 14-15, 24, 30-32, and 35 have been amended.

Claims 5, 9, 13, 17-23, 28-29, 33, and 36 have been cancelled.

Claims 39-43 have been added.

**Requirement for Information**

Page 3 of the present Non-Final Office Action (mailed January 9, 2008) states that “applicant needs to explain why the background of the invention could not be considered as prior art, and the applicant need to further submit all the known information related to the instant application.” After interviewing all three inventors (Kenneth Rose, Mick Jacobs, and Jatin Batra), Applicants submit that the information in the background of the invention can be considered prior art within the meaning of 35 U.S.C. § 102.

**Objections to the Drawings**

Page 4 of the present Office Action requests that Figures 1A and 1B to be labeled as “Prior Art”. Applicants have provided replacement drawings in compliance with 37 CFR 1.121(d) with the additions recommended by the Examiner. Thus, Applicants respectfully request that the objections to the drawings be withdrawn.

**Rejection of Claims under 35 U.S.C. § 103**

Claims 1-8, 10-16, 24-27, 30-38 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gorti et al., U.S. Publication No. 2003/0007452 (Gorti) in view of

Kalkunte et al., U.S. Patent No. 6,118,761 (Kalkunte). After careful consideration of the remarks made in the present Office Action, Applicants assert that Claims 1-8, 10-16, 24-27, and 30-38 are not rendered, as now amended, unpatentable by the combination of Gorti and Kalkunte, in view of the arguments herein. Support for the amendments can be found in at least page 16, line 18-page 17, line 7 of the present Specification.

Regarding independent Claim 1, nothing in the cited portions of the combination of Gorti and Kalkunte disclose (or render obvious) “modifying the first predetermined value”. The combination of Gorti and Kalkunte does not disclose each and every element of independent Claim 1. Thus, Claim 1, similar independent Claims 10, 24, 30, and 31, and all dependent claims are not rendered unpatentable by the combination of Gorti and Kalkunte. Applicants respectfully request that the rejection be withdrawn.

*Newly-added Claims*

Applicants have added Claims 39-43 to disclose additional features regarding the determination of “the predetermined value”. The combination of Gorti and Kalkunte also does not disclose (or render obvious) each and every element of newly-added Claims 39-43. Support for the amendments to Claims 1-8, 10-16, 24-27, and 30-38 can be found in at least page 16, line 18-page 17, line 7 of the present Specification.

The Examiner may refer to paragraph [0057] of Gorti to allegedly show the elements of Claims 39-43. However, as disclosed in paragraph [0057] of Gorti, “step 156 includes determining whether the queue output flow rate is less than or equal to a threshold constant, R”. In contrast, newly-added Claims 39-43 recite “the first predetermined value” that is “modified to avoid frequent receipt of the rate control signal due to oscillation of the quantity of the data stored within the memory device around the first predetermined value”. This demonstrates that

the first predetermined value in newly-added Claims 39-43 is not a constant value, as disclosed in Gorti, but a variable quantity that is modified.

Therefore, the combination of Gorti and Kalkunte does not disclose each and every element of newly-added Claims 39-43. Claims 39-43 are allowable over the cited references.

**CONCLUSION**

Applicants submit that all claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is requested to telephone the undersigned.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to deposit account 502306.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Eric A. Stephenson', with a long horizontal flourish extending to the right.

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